

UNITED STATES DEPARTMENT OF COMMERCE
BUREAU OF EXPORT ADMINISTRATION
WASHINGTON, D.C. 20230

In the Matter of:)
)
KENNETH BRODER)
Calle Rafael Agosto Sanchez No. 22 Torre)
Don Roberto Ens. Piantini)
Apartado (Post Office Box) 30298)
Santo Domingo, Dominican Republic)
)
_____)

ORDER AMENDING THE ORDER DENYING PERMISSION
TO APPLY FOR OR USE EXPORT LICENSES

On February 2, 1999, I entered an Order against Kenneth Broder (Broder) denying his export privileges until February 2, 2007, based upon his February 2, 1998, conviction in the United States District Court for the Southern District of Florida of violating the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1999)) (IEEPA). The Order was issued under the authority of Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401-2420 (1991 & Supp. 1999)) (the Act),¹ and Sections 766.25 and 750.8(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1999)) (the Regulations).

¹ The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)), and August 13, 1998 (3 C.F.R., 1998 Comp. 294 (1999)), continued the Export Administration Regulations in effect under IEEPA.

On March 19, 1999, Broder, through counsel, filed an appeal from the Order with the Under Secretary for Export Administration (Under Secretary), pursuant to Part 756 of the Regulations. On June 10, 1999, the Under Secretary issued his final decision on that appeal and granted partial relief from the terms of the Order by allowing Broder to participate in transactions involving EAR99 items for use or consumption in the Dominican Republic. In order to give effect to his decision, the Under Secretary directed that I amend my February 2, 1999 Order to suspend its application to EAR99 items that are exported or reexported to the Dominican Republic by Broder or on his behalf for use or consumption there.

Accordingly, the February 2, 1999 Order is hereby amended to read as follows:

ORDERED

I. Until February 2, 2007, Kenneth Broder, Calle Rafael Augusto Sanchez No. 22 Torre, Don Roberto Ens. Piantini, Apartado (Post Office Box) 30298, Santo Domingo, Dominican Republic, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item") exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

- A. Applying for, obtaining, or using any license, License Exception, or export control document;
- B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to

be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

- C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.
- II. No person may, directly or indirectly, do any of the following:
 - A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;
 - B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;
 - C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;
 - D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or
 - E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is

owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Broder by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. As directed by the Under Secretary in his decision on Broder's appeal, all of the provisions denying Broder's export privileges set forth above are suspended with respect to Broder's participation, directly or indirectly, in any transaction involving any item classified as EAR99 that is exported or reexported to the Dominican Republic for use or consumption therein, from the date of entry of this Order until February 2, 2007, and shall thereafter be waived, provided that, during the period of suspension, Broder has committed no violation of the Act, or any regulation, order, or license thereunder.

VI. This Order is effective immediately and shall remain in effect until February 2, 2007.

VII. A copy of this Order shall be delivered to Broder. This Order shall be published in the Federal Register.

Date:

6/18/99

Hillary Hess
Hillary Hess
Acting Director
Office of Exporter Services